

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

DOMAIN TOOLS, LLC,

Plaintiff,

v.

RUSS SMITH, pro se, and
CONSUMER.NET, LLC,

Defendant.

CASE NO. C12-498MJP

ORDER DENYING DEFENDANT'S
MOTION FOR SANCTIONS

This matter comes before the Court on the motions for sanctions filed by Defendant Russ Smith. (Dkt. No. 33, 48.) Having reviewed the motion, Plaintiff's opposition (Dkt. No. 54), Defendant's reply (Dkt. No. 55), and all related filings (Dkt. Nos. 34, 35, 48, 49, 50, 51, 52, and 56), the Court DENIES the motion.

Apart from the merits of Defendant's motions, sanctions are inappropriate here because Defendant has not complied with the safe harbor provision of Federal Rule 11. A motion for Rule 11 sanctions "must not be filed or be presented to the court if the challenged paper . . . is withdrawn or appropriately corrected within 21 days after service or within another time the

1 court sets.” Fed. R. Civ. P. 11(c)(2). The “safe harbor provision, granting a time period between
2 the time of service and the time for filing, is designed to allow for the correction of the alleged
3 violation. See Barber v. Miller, 146 F.3d 707, 710 (9th Cir. 1998). While Defendant filed
4 multiple motions for sanctions, these motions did not give sufficient advance notice of exactly
5 which conduct was alleged to be sanctionable. See Foster v. Wilson, 504 F.3d 1046, 1052 (9th
6 Cir. 2007).

7 The Court also declines to impose sanctions in this case because Defendant does not
8 show that Plaintiff’s claim of jurisdiction “completely lacked a factual foundation.” See
9 Montrose Chem. Corp. v. Am. Motorists Ins. Co., 117 F.3d 1128, 1133 (9th Cir. 1997). Rule 11
10 “sets a low bar” and penalizes only baseless filings. Strom v. United States, 641 F.3d 1051, 1059
11 (9th Cir. 2010). In the present case, there is insufficient basis to find that Plaintiff’s filings were
12 baseless. Finally, Defendant’s claim regarding Washington’s Anti-SLAPP statute, RCW
13 4.24.510, fails because Defendant’s communications with the Canadian authorities were not the
14 subject of this lawsuit. (Dkt. No. 54 at 11-12.)

15 For the above reasons, the Court DECLINES to issue an award of sanctions against
16 Plaintiff. The Court also DECLINES to issue an award of attorney’s fees to either party.

17 The clerk is ordered to provide copies of this order to Defendant Smith and to all counsel.

18 Dated this 7th day of September, 2012.

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22 Marsha J. Pechman
23 United States District Judge
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